

Amendments to the Drawings:

The drawing sheet attached in connection with the above-identified application containing Figures 4 and 5 is being presented as a new formal drawing sheet. Figures 4 and 5 are being added to show the features recited in claim 2.

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

The specification has been amended on pages 1, 3, and 5.

Claim 7 has been cancelled.

New claims 10-12 have been added.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-6 and 8-12 are now pending in this application.

Objection to the Drawings

The drawings are objected to for not showing every feature specified in claim 2. The drawings have been amended to include new Figures 4 and 5. Approval of these new figures, and withdrawal of the objection, are respectfully requested.

Rejection under 35 U.S.C. § 112

Claim 6 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for including a broad range or limitation together with a narrow range or limitation. Claim 6 has been amended to overcome this rejection. Withdrawal of this rejection is respectfully requested.

Rejection under 35 U.S.C. § 102

Claims 1 and 3-9 are rejected under 35 U.S.C. (a, e) as being anticipated by U.S. Patent No. 6,412,547 (hereafter "Siler"). This rejection is respectfully traversed.

Amended claim 1, which now includes the limitations of canceled claim 7, recites a heat exchanger that includes a plurality of tubes, corrugated ribs, and two side parts, wherein at least one predetermined breaking point is provided on one side part, and “wherein a marginal region of the side part is bent through approximately 90° along the longitudinal edge of the side part and is interrupted in the region of the predetermined breaking point by cutouts.”

Siler discloses a side plate 18, 20 that is bent along lines 28 and 30 to form a channel with a base 32 flanked by upstanding legs 34, 36. See Siler at col. 4, lines 33-41. Siler discloses at least one opening 42 formed in the base 32 and upstanding leg 34, with the opening having a periphery 48 and a part 50 in close adjacency to the edge 40 of the side plate 18, 20. See Siler at col. 4, lines 56-57, and Figure 4.

The upstanding legs 34, 36 disclosed by Siler are not interrupted by the openings 42, 44 because the edges of the side plate 18, 20 and the upstanding legs 34, 36 continue past the openings 42, 44. Although the openings 42, 44 are in close adjacency to the edges 38, 40, the openings 42, 44 are spaced from the edges 38, 40 and do not interrupt the upstanding legs 34, 36 or the edges 38, 40. Therefore, the side plates 18, 20 disclosed by Siler do not contain all of the limitations recited by amended claim 1. Withdrawal of this rejection is respectfully requested.

Rejection under 35 U.S.C. § 102/103

Claim 2 is rejected under 35 U.S.C. § 102(a, e) as being anticipated by U.S. Patent No. 6,523,603 (hereafter “Uchikawa et al.”) or, in the alternative, under 35 U.S.C. § 103(a) as being unpatentable over Uchikawa et al. in view of U.S. Patent No. 1,357,597 (hereafter “Springer”). This rejection is respectfully traversed.

In regard to the rejection under 35 U.S.C. § 102(a, e), Uchikawa et al. discloses a side plate 130 with slits 135 for absorbing heat stress through a change in the opening area of the slits 135. See Uchikawa et al. at col. 6, lines 53-57. Uchikawa et al. does not disclose, teach, or suggest that slits 135 break. Nor does Uchikawa et al. disclose any other features that serve as a predetermined breaking point. Therefore, Uchikawa et al. fails to disclose all of the features of claim 1.

In regard to the rejection under 35 U.S.C. § 103(a), Uchikawa et al. fails to disclose, teach, or suggest a predetermined breaking point, as noted above. The Office states that it would have been obvious "...to substitute a weakened portion defined by cut out slots in place of the expandable/flexible portions taught in other embodiments of Uchikawa et al." See Office Action at page 5. The Office further states that Springer teaches the equivalence of providing flexible bellows and providing slots. See Office Action at page 5.

Springer discloses a radiator that includes supporting member 5, 6 with undulations 7 that compensate for thermal expansion. See Springer at page 1, lines 76-82, 98-107. Springer further discloses that supporting members 5, 6 may include openings 8 "...to increase the flexible efficiency of the supporting frames." See Springer at page 1, lines 94-97, and Figure 2. Springer does not disclose that flexible bellows and slots are equivalent and may be interchanged. Instead, Springer discloses that supporting members 5, 6 can include undulations 7 to provide flexibility and that openings 8 may be further provided. Furthermore, Springer does not disclose, teach, or suggest that openings 8 form predetermined breaking points. Therefore, it would not have been obvious to one of ordinary skill to have modified the side plate of Uchikawa et al. by the teachings of Springer to form the heat exchanger recited by claim 1. Nor would one of ordinary skill in the art have had motivation to make such a modification. Withdrawal of this rejection is respectfully requested.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

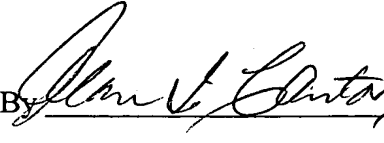
The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are

needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date Feb. 28, 2006

By  Reg# 28,163

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